

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

SUNNY K. PHILIP  
Plaintiff

vs

CITY OF LA FERIA, TEXAS  
Defendant

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CAUSE NO: 1:17-CV-110

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PLAINTIFF SUNNY K. PHILIP'S OPPOSED  
SECOND MOTION TO REMAND

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TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff Sunny K. Philip and files this his Second Opposed Motion to Remand and would respectfully show unto the court as follows:

I.

**PROCEDURAL BACKGROUND**

1.1 On August 1, 2017 this Honorable Court held its initial pre-trial conference.

1.2 The Court after hearing argument from counsel granted the Counter-Plaintiff

City of La Feria's Motion to Dismiss its counter-claims against Plaintiff and denied Plaintiff's Motion to Remand.

1.3 The Court however, gave leave for Plaintiff to Amended his complaint.

1.4 On August 23, 2017 Plaintiff filed its Second Amended Complaint, specifically dismissing his federal causes of action and stipulating that no federal claims would be alleged.

1.5 Because the only remaining claims are those state based, Plaintiff respectfully moves this Honorable Court to remand these proceedings back to the County Court at Law No. 2 of Cameron County, Texas from which it was removed.

## II.

### **ARGUMENT AND AUTHORITY**

2.1 “Where all federal claims are eliminated before trial, the balance of factors to be considered under pendant jurisdiction doctrine...will point toward declining to exercise jurisdiction over the remaining state-law claims”. *Carnegie-Mellon*, 484 US 343, 351, 108 S.Ct. 614, 98 L.Ed. 2d 720

2.2 One of the factors to be considered is judicial economy.

2.3 Comity favors remand in cases such the one at bar permitting state courts to resolve state law claims.

2.4 There has been no significant discovery in the case, and no depositions have been taken and no party will be prejudiced by a remand.

2.5 In a similar case recently decided, this Court dismissed without prejudice similar state claims by the former city manager of the City of Port Isabel. *See Meza v City of Port Isabel* 2016 US. Dist. LEXIS 182420 (Dec. 5, 2016) The

distinction between the two cases is that the *Meza* case was filed in federal court while this action was removed from the County Court at Law No. 2 in Cameron County, Texas. In *Meza* the Court dismissed the state law claims without prejudice. In the instant case the Court need only to remand.

**CONCLUSION AND PRAYER**

WHEREFORE PREMISES CONSIDERED, Plaintiff Sunny K. Philip moves this Honorable Court to Remand this action to the County Court at Law No. 2 of Cameron County, Texas.

Respectfully submitted,  
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By: /s/Ruben R Pena

Ruben R Pena

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State Bar No. 15740900  
Counsel for Sunny K Philip

**CERTIFICATE OF CONFERENCE**

I certify that on this the 23<sup>rd</sup> day of August 2017 I conferred with opposing counsel, Hon. J. Arnold Aguilar and he is opposed to this motion.

/s/ Ruben R Pena

Ruben R. Pena

CERTIFICATE OF SERVICE

I certify that a true copy of this document has been served in accordance with one or more of the authorized methods of service of process contained in the Federal Rules of Civil Procedure on the persons or parties identified below on the 23<sup>rd</sup> day of August, 2017:

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